

STATE OF NEBRASKA
Department of Banking & Finance

In the Matter of)	FINDINGS OF FACT
Moneys Worth, Inc.,)	CONCLUSIONS OF LAW
d/b/a Moneys Worth Fast Bucks,)	AND
4401 North 70 th Street,)	CONSENT AGREEMENT
Lincoln, Nebraska)	

THIS MATTER comes before the Nebraska Department of Banking and Finance ("DEPARTMENT"), by and through its Director, pursuant to its authority under the Delayed Deposit Services Licensing Act, Neb. Rev. Stat. §§ 45-901 to 45-929 (Reissue 1998; Cum. Supp. 2002; Supp. 2003) ("the Act"). Pursuant to Neb. Rev. Stat. § 45-920 (Reissue 1998), the DEPARTMENT has examined the books, accounts, and records of Moneys Worth, Inc., d/b/a Moneys Worth Fast Bucks, 4401 North 70th Street, Lincoln, Nebraska ("FAST BUCKS"). As a result of such examination, and being duly advised and informed in the matter, the Director and FAST BUCKS enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. FAST BUCKS holds a delayed deposit services business license under the Act. The license was originally granted October 23, 1996, and has been renewed annually on May 1st since that time, pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2002).

2. On July 23, 2003, the DEPARTMENT commenced an examination of FAST BUCKS pursuant to Neb. Rev. Stat. § 45-920 (Reissue 1998). This examination included an on-site visitation of FAST BUCKS' sole business office.

3. The July 23, 2003 Report of Examination ("Report") was forwarded to FAST BUCKS on August 26, 2003. The Report noted a number of findings with respect to both current and collection inventories. FAST BUCKS submitted a response to the Report, which was received by the DEPARTMENT on October 8, 2003. The DEPARTMENT requested additional information on November 3, 2003, and a final response was received from FAST BUCKS on November 17, 2003.

4. References in this Consent Agreement to customers of FAST BUCKS will be by way of initials, in order to protect the privacy of such customers.

5. The Report specifically noted that FAST BUCKS was, from April 14, 2003, to May 1, 2003, holding in collection three checks from customer JD in violation of Neb. Rev. Stat. § 45-919(1)(a) (Cum. Supp. 2002).

6. In its October 8, 2003 response, FAST BUCKS indicated that:

On the [JD] checks 556, 559, & 568, all of which are in collections, checks 556 & 559 were transacted in Sept and October of 2002, & Check #568 was done in May of 2003. The third check that was done in May of 2003 was an unfortunate mistake made by someone who used their heart more than their brain, along with my business to put me in violation of a statute. . .I have written off all three of the [JD] checks, so she does not owe us anything.

7. FAST BUCKS' holding of more than two checks from one maker at one time for customer JD is a violation of Section 45-919(1)(a) of the Act.

8. The Report noted that the collections inventory report provided by FAST BUCKS only listed two of thirty-six accounts which had been turned over for collection to a third party, Transworld Systems. The most current status report for those items held by Transworld Systems was dated May 1, 2002. FAST BUCKS provided information concerning the thirty-six accounts with its October 8, 2003 response. Each of these customers was charged a \$12 fee by Transworld Systems in addition to a \$15 "Late Fee" assessed by FAST BUCKS.

9. FAST BUCKS' charging a penalty on these thirty-six accounts in excess of fifteen dollars represents thirty-six separate violations of Neb. Rev. Stat. § 45-917(1)(c) (Reissue 1998).

10. The Report and the October 8, 2003, and November 17, 2003 responses included information concerning twenty-eight transactions which appear to have been held for more than thirty-one days. In addition, a number of the checks associated with these transactions could not be located by FAST BUCKS at the time of the examination.

11. FAST BUCKS' October 8, 2003 response admitted that, "The checks that John Flores [DEPARTMENT Examiner] said were missing from the physical file at the time of examination were at my residence. I would from time to time take some collection check [sic] home so I could call some of them in the evening." [brackets added]

12. FAST BUCKS' not maintaining its books, accounts, and records at its designated principal place of business is a violation of Neb. Rev. Stat. § 45-915(1) (Reissue 1998).

13. For the twenty-eight transactions that appeared to have been held for more than thirty-one days the following was found:

Customer JD; check #556; held one day past the statutory limit
Customer BS; check #1240; held one day past the statutory limit
Customer WP; check #519; held one day past the statutory limit
Customer MN; check #2298; held one day past the statutory limit
Customer PL; check #1976; held one day past the statutory limit
Customer BH; check #2518; held one day past the statutory limit
Customer SE; check #7047; held one day past the statutory limit
Customer SD; check #512; held one day past the statutory limit
Customer BR; check #5283; held two days past the statutory limit
Customer BS; check #1274; held two days past the statutory limit
Customer DD; check #747; held three days past the statutory limit
Customer KC; check #1727; held three days past the statutory limit
Customer LM; check #602; held three days past the statutory limit
Customer DD; check #725; held five days past the statutory limit
Customer JD; check #559; held six days past the statutory limit
Customer AR; check #1202; held seven days past the statutory limit
Customer EB; check #3542; held eight days past the statutory limit
Customer RB; check #237; held fourteen days past the statutory limit
Customer KP; check #2173; never deposited
Customer MM; check #2937; never deposited
Customer KC; check #1222; never deposited
Customer RB; check #2147; never deposited
Customer GR; check #570; never deposited
Customer JM; check #053592; never deposited
Customer CL; check #1388; never deposited
Customer MH; check #852; never deposited
Customer LF; check #1022; never deposited
Customer DN; check #2166; never deposited

For the ten customers' checks that were never deposited, the licensee stamped those checks "Account Closed" and put them directly into the collection inventory.

14. In its November 17, 2003 response, FAST BUCKS addressed the checks that were held past the statutory limit: "Yes I have held several checks over the 31 day limit, I just wanted the consumer to have every chance to be able to pay for the check and incur no extra expenses." With respect to the checks that had never been deposited:

The reason that it was done to those checks were mostly that when I called to verify funds, the bank had closed those checking accounts. . . [several customers] requested that I close their account & set up a payment plan. Again these check [sic] were stamped ACCOUNT CLOSED & went directly to the collection file. . . I sincerely hope that I was not completely wrong here. I figured I rendered the checks non-negotiable when I stamped them ACCOUNT CLOSED & right to the collection file. I thought there was no need to deposit a check when the checking account was closed, nor did I think that the people that requested their account be closed with me, should not have to pay a \$30 to \$40 return check fee from their bank. . . .

15. FAST BUCKS' holding of the checks from customers JD, BS, DD, WP, MN, PL, BH, SE, SD, BR, KC, LM, AR, EB, RB, KP, MM, KC, RB, GR, JM, CL, MH, LF, and DN in excess of thirty-one days represent twenty-eight separate violations of Neb. Rev. Stat. § 45-919 (1)(c). Seventeen of these violations were for time periods of less than ten days in excess of the statutory limit. Eleven of these violations were for time periods of more than ten days in excess of the statutory limit.

16. Based on the foregoing pattern of violations, the DEPARTMENT could conclude that the actions of FAST BUCKS warrant the commencement of administrative proceedings to determine whether it should suspend or revoke FAST BUCKS' delayed deposit services business license pursuant to Neb. Rev. Stat. § 45-922 (Cum. Supp. 2002), or whether it should impose an administrative fine in an amount not more than \$5,000.00 for each separate violation, plus investigative costs, pursuant to Neb. Rev. Stat. § 45-925 (Reissue 1998).

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-922 (Cum. Supp. 2002) provides that if the Director finds, after notice and opportunity for hearing, that a delayed deposit services business licensee or any of its officers or directors has knowingly violated the Act, or a fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the Director in refusing to grant the license, the Director may suspend or revoke the license.

2. Neb. Rev. Stat. § 45-908 (Reissue 1998) provides that in order to issue a delayed deposit services business license, the Director must determine that the character and general fitness of the applicant and its officers, directors, and shareholders are such as to warrant a belief that the business will be operated honestly, fairly, and efficiently, and in accordance with the Act.

3. Neb. Rev. Stat. § 45-919 (Cum. Supp. 2002) lists acts which are prohibited by a licensee. These acts include, in pertinent part, holding at one time from any one maker more than two checks and holding or agreeing to hold a check for more than thirty-one days.

4. Neb. Rev. Stat. § 45-917 (1)(c) (Reissue 1998) provides that every licensee shall disclose to customers any penalty not to exceed fifteen dollars which the licensee will charge if the check is not negotiable on the date agreed upon.

5. Neb. Rev. Stat. § 45-915 (1) (Reissue 1998) provides that a licensee shall maintain its books, accounts, and records at its principal place of business.

6. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that FAST BUCKS has knowingly violated the Act, or that a fact or condition exists which could allow the Director to conclude that FAST BUCKS did not meet the statutory requirements of Neb. Rev. Stat. § 45-908 (Reissue 1998), and that FAST BUCKS' license should be suspended or revoked in accordance with Neb. Rev. Stat. § 45-922 (Cum. Supp. 2002).

7. Neb. Rev. Stat. § 45-925 (Reissue 1998) provides that if the Director finds, after notice and opportunity for hearing, that any person has violated the Act, the Director may order such person to pay an administrative fine of not more than five thousand dollars for each separate violation and the costs of an investigation.

8. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that FAST BUCKS has violated the Act, and that an administrative fine in an amount of not more than \$5,000 for each separate violation plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-925 (Reissue 1998).

9. Under the Act's statutory framework, the Director has the legal and equitable authority to fashion significant remedies.

10. It is in the best interest of FAST BUCKS, and it is in the best interest of the public, for FAST BUCKS and the DEPARTMENT to resolve the issues included herein.

CONSENT AGREEMENT

The DEPARTMENT and FAST BUCKS agree as follows:

Stipulations: In connection with this Consent Agreement, FAST BUCKS and the Director stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Agreement shall resolve all matters raised by the DEPARTMENT's July 23, 2003 examination of FAST BUCKS.
3. This Consent Agreement shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Agreement.

FAST BUCKS further represents as follows:

1. FAST BUCKS is aware of its right to a hearing on these matters at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing, and any related appeal, is irrevocably waived.
2. FAST BUCKS is acting free from any duress or coercion of any kind or nature.
3. This Consent Agreement is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Agreement and for no other purpose.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Agreement, FAST BUCKS shall pay a fine of one hundred dollars (\$100.00) for the one

violation of Neb. Rev. Stat. § 45-919 (1)(a) (Cum. Supp. 2002) where more than two checks were held from one maker.

2. Within ten (10) days after the effective date of this Consent Agreement, FAST BUCKS shall pay a fine of one hundred dollars (\$100.00) per violation for each of the seventeen violations of Neb. Rev. Stat. § 45-919 (1)(b) (Cum. Supp. 2002) that were for time periods of less than ten days in excess of the statutory limit, and a fine of two hundred fifty dollars (\$250.00) per violation for each of the eleven violations of Neb. Rev. Stat. § 45-919 (1)(b) (Cum. Supp. 2002) that were for time periods of more than ten days in excess of the statutory limit.

3. Within ten (10) days after the effective date of this Consent Agreement, FAST BUCKS shall pay a fine of fifty dollars (\$50.00) per violation for each of the thirty-six violations of Neb. Rev. Stat. § 45-917 (1)(c) (Reissue 1998), where the licensee attempted to charge the customer a penalty in excess of the statutory limit when a check was not negotiable on the date agreed upon.

4. Within ten (10) days after the effective date of this Consent Agreement, FAST BUCKS shall pay a fine of one hundred dollars (\$100.00) for the one violation of Neb. Rev. Stat. § 45-915 (1) (Reissue 1998) where books, accounts, and records were not maintained at the licensee's designated principal place of business.

5. The total amount of the fine, six thousand four hundred fifty dollars (\$6,450.00), shall be payable in one check or money order to the DEPARTMENT.

6. FAST BUCKS shall adopt a written policy which prohibits the charging of penalties exceeding the statutory allowable limit when a check is not negotiable on the date agreed upon and shall do so within ten (10) days after the effective date of this Consent Agreement. The only other fees allowable shall be disclosed to the customer at the time of the transaction and shall only include those allowed by court order on a case by case basis or required in association with collection efforts performed by a county attorney in accordance with Neb. Rev. Stat. § 28-611 (Reissue 1995). Furthermore, FAST BUCKS shall adopt a written policy which prohibits the holding of more than two checks from one maker and which prohibits the holding of checks for more than thirty-one days and shall do so within ten (10) days after the effective date of this Consent Agreement. These policies shall be submitted to the DEPARTMENT for review. After the DEPARTMENT has reviewed the policies, FAST BUCKS shall review this policy with all current employees and upon hiring of any new employees. FAST BUCKS agrees that any violation of either of these policies, whether intentional or not, will be considered violations of Neb. Rev. Stat. § 45-917 (Reissue 1998) or Neb. Rev. Stat. § 45-919(1) (Cum. Supp. 2002) respectively.

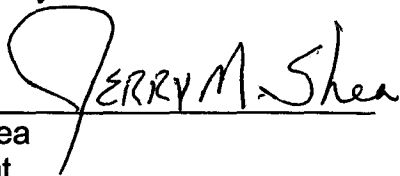
7. In the event FAST BUCKS fails to comply with any of the provisions of this Consent Agreement, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

8. If, at any time, the DEPARTMENT determines FAST BUCKS has committed any other violations of the Act, the DEPARTMENT may take any

action available to it under the Act. The DEPARTMENT may use this Consent Agreement in any future administrative action regarding FAST BUCKS.

9. The effective date of this Consent Agreement will be the date of the Director's signature.

Moneys Worth Inc.,
d/b/a Moneys Worth Fast Bucks



Jerry Shea
President

Nebraska Department of Banking
and Finance



Samuel P. Baird
Director

Dated: 1/22/04

Dated: 1-26-04